

In the United States District Court  
For the Middle District of Pennsylvania

JAMES H. WILLIAMS  
(Plaintiff)

Civil No<sup>#</sup> 1:CV-01-0280

vs

RICHARD L. SPAIDE  
(Defendant)

Judge Kane

FILED  
HARRISBURG, PA

DEC 23 2004

MARY E. D'ANDREA/CLERK  
Per KJN

Plaintiff's Reply in opposition to  
Defendant's statement of Material facts

Statement of the case

This is a pro se inmates civil Rights action brought pursuant to 42 U.S.C § 1983. JAMES H. WILLIAMS (Plaintiff) is an inmate currently housed at S.C.I. Greene (though Plaintiff have been temporary housed at S.C.I. Mahanoy for Court appearance)

The allegations in Plaintiff's complaint arose during the time Plaintiff was housed at the State Correctional Institution (S.C.I.) at Mahanoy.

Plaintiff allegation alleges that Richard Spaide (Defendant). violated his Eighth Amendment Right by the use of physical force.

Plaintiff requests compensatory and punitive damages as well as Court costs and filing fees.

Plaintiff also requests that the Court discipline Defendant for his action. on February 8, 1999

By order of this Court dated September 30, 2004 Plaintiff Received Court order October 7, 2004 (Thursday) directing Plaintiff to file a brief in opposition to Defendant's motion for summary judgment (Doc. 51) and statement of material facts (Doc. 52) and brief in support #53. now Plaintiff files Brief in opposition to Defendant's statements of materials facts. which should be Denied.

### Statement of Facts

The facts relevant to this Brief is as follows:

While incarcerated serving Twenty-Five (25) to Fifty (50) yrs sentence at C.S.C. Mahanah. prior to February 8, 1999 incident the Defendant did rec'd a verbal Reprimand from his superior Deputy Novotney when Defendant disobeyed his order to hire Plaintiff for laundry job housed on I-block.

Prior to Plaintiff being transferred to I-block he was housed on another unit. I-block was a new unit and was not yet operational for inmates between the month of October 1999? Plaintiff approached Deputy Novotney while housed on another unit and Deputy Novotney when I-block becomes

operational can he have Plaintiff transferred to I-unit as a laundry worker. (Laundry job is the highest paid job on the unit) Deputy Novotney assured Plaintiff when I-block becomes operational laundry job is his. Upon arriving on I-block Deputy Novotney informed Plaintiff that he spoke to Defendant and Defendant of I-block about giving one of the laundry job to Plaintiff everything was O.K. the job was Plaintiff's. when Plaintiff arrived on I-block Defendant did not hire Plaintiff as instructed although told to do so.

~~Defendant~~ Defendant informed Plaintiff when an opening happens available he would hire Plaintiff at a later date. Defendant hired other inmates instead.

Several days later Plaintiff's been Deputy on compend and informed him Defendant declined to hire him per his instruction. Deputy Novotny stopped and allowed Plaintiff's to explained what happen. Deputy then proceeded to 8-block with Plaintiff's looking for Defendant. upon arriving on 8-block Deputy demanded to know where Defendant was at and spoke to Sgt Shaw? at Central telling him here's the inmate I wanted working in the laundry room. AS A result Defendant had to fire an inmate and hire me because this time Deputy give him direct order to hire Plaintiff's now.

thereafter, Defendant expressed to Plaintiff's he did not appreciate Plaintiff's going over his head to his superiors about not hiring Plaintiff's

thereafter, Defendant's started moving inmates who smoked into Plaintiff's cell. knowing Plaintiff's was non smoker, even after filing grievance on matter which grievance coordinator stated give Defendant more time. Defendant still decline to correct matter. (see Exhibit "A" grievance dated 9-26-98)

Plaintiff's is aware this court dismissed smoking issue based on statute of two (2) yrs limitations. nevertheless, the matter is relevant to show extreme animosity Defendant had towards Plaintiff's prior to Feb. 1999 incident.

Defendant's refusal to hire Plaintiff's as instructed was based on Plaintiff's prior behavior while on other blocks and institution according to Defendant.

Again Exhibit "A" is needed to establish bias and motive. As to Defendant's continuance official oppression and abuse of power. while housed in L-5 (R-H-U) Plaintiff's wrote Defendant a threatening request slip with bodily harm. after receiving additional D.C. sanction Defendant had Plaintiff's returned back to his unit under his care, custody and control. AS A result, AN ASSAULT occurred and Plaintiff's was charged with ASSAULTING Defendant.

Plaintiff's Response in opposition to Defendant's statements of Material Facts.

1. Plaintiff's JAMES H. WILLIAMS is an inmate housed at S.C.& Greene. (Complaint).

Response: Unopposed.

2. Plaintiff's WILLIAMS was housed at S.C.& Mahaney on February 8, 1999.

Response: Unopposed.

3. On February 8, 1999, Defendant RICHARD SPAIDE was the 2-Unit Manager at S.C.& Mahaney and was familiar with Plaintiff WILLIAMS.

Response: Unopposed.

4. On Monday, February 8, 1999, at approximately 0755 hours, Defendant SPAIDE entered 2-Unit main vestibule with inmate CROCKETT (inmate DT-2992). Defendant SPAIDE turned around and pushed open the B-pod door with his left shoulder as he continued a conversation with inmate CROCKETT who was entering A-pod. Inmate BRYANT (inmate DT-1618) was using one of the inmate telephones which are located just inside the B-pod entrance door.

Response: objection, and opposed.

A). On Monday, February 8, 1999, during AM yard movement near completion thereof, Defendant SPAIDE entered 2-Unit main vestibule while speaking with inmate in question as Defendant was backing into the Pod "while" talking to inmate in question, not looking where he was walking.

(See Plaintiff's Exhibit "B" statement by Defendant dated Feb 8, 99 time 1135.) quote; As I was entering I/B Pod I was backing into the P.O.D. while talking to inmate CROCKETT.

5. At the time Defendant Spaide was pushing open the door with his left shoulder he was knocked to the floor by a blow to the back of his head just behind his right ear. Defendant Spaide initially thought that the pod door had slammed shut on him.

Response: objection, and opposed.

A) As Defendant was entering I/B Pod Defendant was backing into the pod while talking to inmate Crockett.

B) As Defendant was turning around something struck Defendant on the left side of his head.

C) Defendant fell to his knee and was struck on the right side of his head.

D) Initially Defendant thought the door had closed on his head.

See Plaintiff's Exhibit "B" Employee Report of extraordinary occurrence dated Feb 8, 1999 Time 1135

6. As Defendant Spaide was getting up he was struck on the left side of the face. It was then that Defendant Spaide realized that he was being assaulted by an inmate.

Response: objection, and opposed.

A) No where in Defendant Report dated Feb 8, 1999 which he signed, stated while he was getting up he was struck on the left side of the face.

B) PARAGRAPH SIX (6) should only state;

After the 2nd punch Defendant realized that an inmate was punching him. (See Exhibit "B")

7. As Defendant Spaide stood up he was punched in the right eye by the inmate.

Response: objection, and opposed.

A) No where in Defendant Report dated Feb 8, 99 which he signed, stated, when he stood up he was punched in the right eye by the inmate. (See Exhibit "B")



8. Defendant Spaide then notice that the Assailant was inmate Williams (inmate AY-8692), the Plaintiff in this litigation.

Response: Unopposed

9. Defendant Spaide grabbed Plaintiff Williams around the waist and force him into the wall. At that time Corrections officer Steinhilber arrived and subdued Plaintiff Williams until Corrections officer Williams arrived and handcuffed inmate Williams.

Response: Unopposed

10. Plaintiff Williams was immediately taken to the medical department by the escorting officer

Response: Unopposed

11. Defendant Spaide received first aid treatment at the G.C. & Mahanoy dispensary and was then taken to the Pottsville Hospital for follow-up medical treatment.

Response: Unopposed

12. As a result of the assault on February 8, 1999 Defendant Spaide sustained injuries to and around his right eye.

Response: Unopposed

13. Defendant Spaide did not "elbow" Plaintiff Williams or come in contact with him in any other way before Plaintiff Williams hit Defendant Spaide on the back of the head and began the assault on Defendant Spaide.

Response: objection, and opposed.

A). As Defendant was backing up while talking to inmate in question. as Defendant was turning around Plaintiff was going to morning yard when Defendant elbow Plaintiff, which Plaintiff immediately defended himself by ~~first~~ hitting Defendant first in the side while Defendant was bent over to the back or side of the head. Defendant fell.

13. - B)

According to Defendant Spaide own statement. as I was turning around something struck me  
(See Exhibit "B" Report dated Feb 8, 1999)

As Defendant was turning around Plaintiff was elbowed by Defendant prior to assault occurring

c) Defendant Spaide did come in contact with Plaintiff before February 8, 1999 incident

On December 4, 98 while housed in R-H-11 Plaintiff wrote Defendant a threatening Request Slip  
(See Exhibit "D" Request Slip dated Dec 4, 98)

On December 7, 98 or about, Defendant approached Plaintiff while housed in R-H-11 in reference to Plaintiff threatening him which Defendant wrote in P.C.# A-125751 dated Dec 7, 98. Williams should not acknowledge being the author of the Request Slip

(See Exhibit "D" pg 2 P.C. Report dated 12 7 98)

During this verbal confirmation with Defendant R-HU staff reported unsatisfactory conduct from Williams, who is frequently disrespectful. They report that he continues to make threatening remarks toward Mr. Spaide.

(See Exhibit "D" pg 3 P.C. Periodic Review dated Dec 23, 98)

During this visit Defendant stated Plaintiff will be returned back to his block under his care, custody and control, and placed right back in same cell when Plaintiff D.C. sanction expires. Defendant informed Plaintiff we will deal with it when he return. Referring to Plaintiff threat made against Defendant during Defendant to place him back into same cell.

(See Exhibit "E" pg 3. A state Police investigative Report Transmittal sheet dated December 20, 1999)

14. As a result of the assault, Plaintiff's Williams was immediately transferred to S.C.T. Coal Township, on a temporary basis, and then was transferred to S.C.T. Greene  
Response: Unopposed.

15. Plaintiff's Williams rec'd M.C. #103901 for his alleged assaultive behavior and failure to obey an order on February 8, 1999.

Response: Unopposed

16. Plaintiff Williams was found guilty etc.

Response: Unopposed

17. Criminal charges of aggravated assault, etc was filed etc.

Response: Unopposed.

18. Plaintiff was found guilty and sentenced to 6 to 12 yrs

Response: Unopposed.

19. D.O.C. has in place inmate Grievance system DC-ADM 804, which an inmate may file grievance complaining of staff behavior, among other issues.

Response: Unopposed in part, object in part.

objection: the D.O.C. have also established "Inmate Abuse Allegation Monitoring" DC-ADM-001 system.

#### II Definitions A "Abuse"

subsection (1) Conduct that is prohibited either by law or by Dept policy. Such conduct involves:

- a. use of excessive force upon an inmate;
- b. an occurrence of an unwarranted life threatening act against an inmate; and/or
- c. an articulated verbal or written threat to inflict physical injury directed toward an inmate.

#### B. Abuse Allegation Monitoring.

the procedures for collecting and reviewing information regard complaints and grievance of abuse of inmates.

#### 1. Office of Professional Responsibility (OPR)

(see Exhibit "I" Inmate Abuse DC-ADM-001 policy)



20. Plaintiff Williams did not file any grievance raising the issue of Defendant Spaide's alleged "assault" of Plaintiff on February 8, 1999.

Response: objection, and opposed.

A. Plaintiff did file grievance against Defendant Spaide concerning Feb 8.99 incident.

(See Exhibit "G" Rejected Grievance dated March 5, 99) stating, Grievance system is not used to initiate law suit.

Plaintiff also filed complaint against Defendant Spaide with N.A. office and state police and subsequently thereafter with D.O.C. central office and office of Professional Responsibility (OPR) (see Exhibit "J" page #1 thru 8)

"OPR" assured Plaintiff's S.C.I. Makinoy staff was the one who conducted investigation against Defendant Spaide and other official at Makinoy. (see Exhibit J, page #5 thru #8.)

The above documentation submitted by Plaintiff is contrary to Defendant Spaide declaration under the penalty of perjury in accordance with 28 U.S.C. § 1746. of not having contact with Plaintiff before the assault and swearing Plaintiff never filed any complaint on record against him.

21. Prior of being returned back to Defendant Spaide unit, Plaintiff requested help confinement which was denied, and by Request Slip filed complaint against Defendant, prior to Feb 8, 99 assault. with Capt Dragovich. these documents among other documents to prove my innocence was removed from my personal legal property at S.C.I. Makinoy. to support my claim Plaintiff was transferred from Makinoy Feb 8, 99 yet his legal material remained at Makinoy until March 8, 99 when an inmate is transferred his legal document always leave with him. yet Plaintiff remained behind while staff went through it.

Date: (see Exhibit "C" pg # 1-3 GRV# Mah-0067-99)  
(December 13, 2004)

I, James H. Williams, AY-869Z. Plaintiff declare under the penalty of perjury in accordance with 28 U.S.C. § 1746 that the above facts are true and correct based upon my personal knowledge and belief.  
(9) James Williams

In the United States District Court  
For the Middle District of Pennsylvania

JAMES H. WILLIAMS  
(Plaintiff)

Civil No<sup>#</sup> 1:01-CV-00280

vs

Judge Mene

Richard L. Spaide  
(Defendants)

Certificate of Service

I, JAMES H. WILLIAMS, pro se, hereby certify that on December 13, 2004 I served a true and correct copy of the foregoing statement of material facts with supporting exhibits by causing it to be deposited in the United States mail, first-class postage prepaid to the following

~~not served~~  
~~Linda S. Lloyd D.D. 1A66720~~  
~~Deputy Attorney General~~  
~~Office of Attorney General~~  
~~15th Floor, Strawberry Square~~  
~~Litigation Section~~  
~~Harrisburg, Pa. 17120~~

office of the clerk  
U.S. District Court House  
228 Walnut St. P.O. Box 983  
Harrisburg, Pa. 17108  
Certified mail #  
7003-2260-0002-6445-6193

Date December 13, 2004

Respectfully submitted  
James Williams

James Williams  
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Waynesburg, Pa. 15370